

Message Text

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FM SECSTATE WASHDC
TO USDEL SECRETARY IMMEDIATE

S E C R E T STATE 207424 TOSEC 100346

EXDIS

E.O. 11652: XGDS

TAGS: MASS, RO

SUBJECT: ACTION MEMORANDUM - MILITARY SALES TO ROMANIA
(S/S NO. 7517197)
REF: BUCHAREST 4226 (TAB 2); USDAO BUCHAREST 231 (TAB 3)
FOR THE SECRETARY FROM LOWENSTEIN, ACTING AND SONNENFELDT

1. THE PROBLEM

DURING U.S. VISIT LAST SPRING OF ROMANIAN ARMY CHIEF
OF STAFF GENERAL COMAN, ONE OF HIS ASSOCIATES RAISED THE
QUESTION OF PURCHASES OF U.S. MILITARY TECHNOLOGY AND
EQUIPMENT. WE HAVE SINCE BEEN INFORMED THAT THE ROMANIANS
WISH TO DISCUSS THIS SUBJECT WITH GENERAL WEYAND DURING HIS
VISIT TO ROMANIA SEPTEMBER 1 TO 5. AMBASSADOR BARNES
BELIEVES THAT WE SHOULD GIVE GENERAL COMAN AS CLEARCUT A
REPLY AS POSSIBLE BEFORE GENERAL WEYAND'S VISIT ENDS (TAB 2)

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2. BACKGROUND/ANALYSIS

DURING THE MARCH 1975 VISIT OF GENERAL COMAN TO THE
U.S., GENERAL CIOROIANU, CHIEF OF THE TECHNICAL PLANNING

AND PROCUREMENT DIRECTORATE IN THE MINISTRY OF DEFENSE, WHO ACCOMPANIED HIM, EXPRESSED A ROMANIAN DESIRE TO PURCHASE CERTAIN U.S. MILITARY EQUIPMENT. THE ROMANIANS SUBSEQUENTLY

GAVE US AN ITEMIZED LIST (TAB 3). THIS LIST INCLUDES "LETHAL EQUIPMENT" SUCH AS GRENADE LAUNCHERS, ROCKET LAUNCHERS, ROCKETS, ROCKET GUNBOATS, AMONG OTHER ITEMS.

3. THERE ARE FOUR MAJOR OPTIONS:

1. TO GIVE THE ROMANIANS A NEGATIVE REPLY TO THEIR REQUEST.

2. TO SAY THAT WE WILL DO WHAT WE CAN.

3. TO SAY THAT WE ARE PREPARED TO BE OF SOME ASSISTANCE (PREFERABLY AS FAR AS "NON-LETHAL" EQUIPMENT IS CONCERNED).

4. TO GIVE A TEMPORIZING REPLY.

IN SELECTING FROM AMONG THESE OPTIONS WE MUST BEAR IN MIND THE LEGAL CONSTRAINTS, WHICH ARE DESCRIBED IN DETAIL AT TAB 1. THE BATTLE ACT ESTABLISHED THE POLICY OF EMBARGOING WEAPONS AND STRATEGIC MATERIALS EXPORTS TO "THE USSR AND COUNTRIES UNDER ITS DOMINATION." IN VIEW OF ITS MEMBERSHIP IN THE WARSAW PACT ROMANIA HAS BEEN CONSISTENTLY INCLUDED IN THIS CATEGORY. REGULATIONS GIVING EFFECT TO BATTLE ACT POLICY CONTAIN A GENERAL PROHIBITION ON SUCH EXPORTS THROUGH COMMERCIAL CHANNELS. THE FOREIGN MILITARY SALES ACT WHICH REGULATES GOVERNMENT TO GOVERNMENT SALES PERMITS DEALINGS ONLY WITH COUNTRIES WITH RESPECT TO WHICH THE PRESIDENT HAS FOUND THAT THE SALES "WOULD STRENGTHEN THE SECURITY OF THE UNITED STATES AND PROMOTE WORLD PEACE." BOTH COMMERCIAL AND GOVERNMENT SALES MUST BE REPORTED.

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SINCE THERE IS NO FLAT PROHIBITION OF SALES IN EITHER ACT IT CAN BE ARGUED THAT THE PRESIDENT RETAINS THE AUTHORITY TO AUTHORIZE THEM. SUCH A FINDING WOULD BE HIGHLY CONTROVERSIAL, HOWEVER, AND WOULD BE WIDELY PERCEIVED AS AN EFFORT TO CIRCUMVENT POLICIES ESTABLISHED BY THE CONGRESS.

EVEN IF THE DOMESTIC PROBLEM WERE MANAGEABLE WE WOULD FACE A MAJOR HURDLE WITH COCOM. THE HARDWARE WHICH THE ROMANIANS WANT APPEARS TO FALL UNDER THE CATEGORY A BATTLE ACT LIST AND ARE SUBJECT TO ABSOLUTE EMBARGO BY COCOM. EVEN IF OUR ALLIES COULD BE PERSUADED OF THE WISDOM OF SUCH SALES TO ROMANIA - WHICH WE DOUBT - IT SEEMS

LIKELY THAT OUR PUSHING FOR SUCH AN EXCEPTION WOULD DO
IRREPARABLE DAMAGE TO FUTURE EFFORTS TO ENSURE UNIFORM

POLICY ON TRADE IN STRATEGIC GOODS IN COCOM.

4. COMMUNICATIONS AND SPACE EQUIPMENT

AS YOU KNOW THE ROMANIANS ARE INTERESTED IN PURCHASING
SPECIAL COMMUNICATIONS EQUIPMENT FOR PRESIDENT CEAUSESCU'S
BOEING 707. WE ARE IN A POSITION TO TELL THE ROMANIANS
THAT WE CAN MAKE THIS EQUIPMENT AVAILABLE FOR SALE TO
THEM WITHOUT THE SPECIAL CRYPTOGRAPHIC GEAR. (EXPORT
OF THE CRYPTOGRAPHIC EQUIPMENT WOULD REQUIRE COCOM CLEAR-
ANCE.)

THE ROMANIANS HAVE ALSO APPROACHED US FOR EQUIPMENT
AND TECHNOLOGY IN CONNECTION WITH SPACE ACTIVITIES. WHAT
THEY ARE INTERESTED IN - SPECIAL PHOTOGRAPHIC MATERIALS,
SCIENTIFIC INSTRUMENTATION, REMOTE SENSING EQUIPMENT, ETC.
- HAS POSSIBLE MILITARY APPLICATIONS AND MAY POSE SOME
PROBLEMS. HOWEVER, WE COULD TELL THE ROMANIANS THAT WE
WILL DO OUR BEST TO BE HELPFUL IN MAKING THIS EQUIPMENT
AVAILABLE FOR SALE TO THEM IF WE CAN OBTAIN MORE PRECISE
INFORMATION AS TO HOW THEY PROPOSE TO USE THIS EQUIPMENT.

5. OPTIONS

1. TELL THE ROMANIANS THAT WE WILL NOT BE ABLE TO MEET
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THEIR REQUEST FOR MILITARY EQUIPMENT AND TECHNOLOGY,
THAT WE COULD MAKE COMMUNICATIONS EQUIPMENT (EXCEPT
CRYPTOGRAPHIC GEAR) AVAILABLE FOR SALE FOR CEAUSESCU'S
AIRCRAFT AND THAT WE MAY BE ABLE TO MEET SOME OF THEIR
NEEDS FOR EQUIPMENT FOR SPACE RESEARCH PURPOSES.

PRO -

-- THIS IS CONSISTENT WITH OUR LONGSTANDING POLICY OF
NOT CHALLENGING SOVIET SECURITY INTERESTS IN EASTERN
EUROPE.

-- AVOIDS FEEDING UNREALISTIC ROMANIAN EXPECTATIONS
ABOUT THE VALUE OF THEIR U.S. CONNECTION AND THEREBY
PROVIDES THE BEST FOUNDATION FOR OUR LONGTERM BILATERAL
RELATIONSHIP.

-- LEAVES US WITH OTHER POSITIVE SIGNALS WE CAN GIVE
THE ROMANIANS, INCLUDING THE VISIT OF GENERAL WEYAND
ITSELF.

-- WOULD BE THE EASIEST DECISION TO DEFEND WITH CONGRESS

AND THE PUBLIC.

CON -

-- LIMITS OUR FLEXIBILITY BY DEPRIVING US OF POTENTIAL
OF MILITARY SALES TO ROMANIA AS A TOOL OF OUR POLICY
TOWARDS THE SOVIET UNION AND EASTERN EUROPE.

-- COULD BE CRITICIZED BY SOME BOTH IN AND OUT OF CONGR-
ESS AS EVIDENCE OF OUR UNWILLINGNESS TO SUPPORT OUR
FRIENDS IN THE SOVIET "SPHERE OF INFLUENCE."

2. TELL THE ROMANIANS THAT WE WILL DO WHAT WE CAN TO
MEET THEIR NEEDS FOR MILITARY EQUIPMENT.

PRO -

-- WOULD BE WELCOMED BY SOME ELEMENTS IN THIS COUNTRY
AS EVIDENCE THAT THE ADMINISTRATION DOES NOT SEE CSCE
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AS RATIFYING THE STATUS QUO IN EASTERN EUROPE.

-- WOULD HEIGHTEN THE ROMANIAN DISRUPTIVE POTENTIAL
WITHIN THE WARSAW PACT.

WOULD ENCOURAGE ANTI-SOVIET ELEMENTS IN ROMANIA TO
BELIEVE THAT AN ANTI-SOVIET POLICY WOULD RECEIVE U.S.
SUPPORT.

CON -

-- WOULD POSE ALMOST INSURMOUNTABLE LEGAL PROBLEMS AS
WELL AS DOMESTIC DIFFICULTIES WITH THE CONGRESS AND
PUBLIC OPINION.

-- WOULD BE SEEN BY MOSCOW AS A TURNING POINT IN THE
EVOLUTION OF OUR POLICY TOWARD EASTERN EUROPE AND
COULD LEAD THE SOVIETS TO CONCLUDE THAT THEY COULD NOT
TOLERATE A CEAUSESCU-LED REGIME IN THE LONG RUN.

-- WOULD CONFLICT WITH THE UNDERLYING RATIONALE OF
DETENTE AND THUS FURTHER UNDERMINE OUR EFFORTS TO ENLIST
PUBLIC SUPPORT FOR IMPROVED RELATIONS WITH THE SOVIET
UNION.

-- WOULD SET US ON A COURSE OF PROVIDING MILITARY
SUPPORT FOR DISSIDENT STATES IN EASTERN EUROPE WHICH
WE WOULD PROBABLY BE UNABLE TO PURSUE TO ITS LOGICAL
CONCLUSION.

-- COULD BE MISLEADING BECAUSE LEGAL AND COCOM LIMITATIONS

MAY PRECLUDE US FROM PROVIDING WHAT THE ROMANIANS WANT.

-- WOULD WORRY WESTERN EUROPE COUNTRIES THAT OUR POLICY MIGHT ENDANGER THE FABRIC OF DETENTE.

3. TELL THE ROMANIANS THAT WE MAY BE ABLE TO SELL THEM SOME NON-LETHAL MILITARY EQUIPMENT AS WELL AS THE COMMUNICATIONS ITEMS FOR CEAUSESCU'S AIRCRAFT AND SPACE RESEARCH GEAR BUT THAT WEAPON SALES ARE NOT POSSIBLE.

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PRO -

-- THIS IS PROBABLY THE MOST FORTHCOMING POSITION WE CAN HONESTLY TAKE AND IT OFFERS SOME OF THE ADVANTAGES OF OPTION II WITH FEWER DISADVANTAGES.

-- WOULD REDUCE SOME BUT NOT ALL OF THE LEGAL PROBLEMS.

CON -

-- CREATES NEVERTHELESS MANY OF THE SAME CONGRESSIONAL PROBLEMS AS OPTION I WITH ONLY MARGINAL COUNTERVAILING

ADVANTAGES.

-- PUTS US ON THE SLIPPERY SLOPE OF MEETING THE ROMANIANS PART-WAY, THUS ENCOURAGING THEM TO KEEP ASKING. IF WE DECIDE THAT WE CANNOT OR THAT WE SHOULD NOT BE A WEAPON SUPPLIER TO ROMANIA, WE WOULD PROBABLY BE BETTER OFF STAYING OUT OF THE MILITARY SUPPLY BUSINESS AND AWAY FROM THE PROBLEM OF WHAT IS OR IS NOT "LETHAL."

4. TEMPORIZE, TELLING THE ROMANIANS WE ARE STILL STUDYING THE QUESTION.

PRO -

-- KEEPS DANGLING THE CARROT, PROVIDING SOME ENCOURAGEMENT TO THOSE IN ROMANIA WHO SEE THE POSSIBILITY OF U.S. MILITARY SUPPLIES AS A VIABLE ALTERNATIVE TO DEPENDENCE ON MOSCOW AND THUS SHORING UP ROMANIAN DISRUPTIVE POTENTIAL AT MINIMAL COST TO OURSELVES.

-- KEEPS OPEN AN OPTION WHICH COULD BE USED IMPLICITLY OR EXPLICITLY TO DISCOURAGE THE SOVIETS FROM ASSUMING THE ROLE OF ARMS SUPPLIER TO NATO ALLIES SUCH AS TURKEY.

CON -

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-- KEEPING THE ROMANIANS ON THE STRING AND THE CONGRES-
S AND THE PUBLIC IN THE DARK COULD HAVE SERIOUS DOMESTIC
POLITICAL REPERCUSSIONS.

-- IF, AS SEEMS LIKELY, THERE IS LITTLE OR NO POSSIBILITY
OF CARRYING THROUGH WITH WEAPON SALES, THIS TEMPORIZING
OPTION WILL EVENTUALLY BE SEEN FOR WHAT IT IS BY THE
ROMANIANS WITH ADVERSE EFFECT ON OUR RELATIONS.

-- WOULD NOT HAVE ANY SERIOUS RESTRAINING INFLUENCE ON
SOVIET MOVES IN THE NATO AREA SINCE THE SOVIETS MUST
REALIZE HOW DIFFICULT THE PROBLEM OF ARMS SALES TO
ROMANIA WOULD BE FOR US.

6. BUREAU VIEWS

EUR STRONGLY RECOMMENDS OPTION 1. PM CONCURS IN OPTION
1 AT THIS TIME. IT SEES GREAT MERIT, HOWEVER, IN NOT
FORECLOSING THE ISSUE OF MILITARY SUPPLY FOR THE INDEFIN-
ITE FUTURE.

AS FOR THE MANNER OF HANDLING THIS, WE BELIEVE THE
MATTER SHOULD BE TAKEN UP BY AMBASSADOR BARNES DIRECTLY
WITH GENERAL COMAN, THUS EMPHASIZING THE POLITICAL
CHANNEL. CONTRARY TO BARNES' VIEW WE ARE FIRMLY OPPOSED
TO BRINGING GENERAL WEYAND IN THIS. WE ARE CONFIDENT
THAT THIS ROMANIAN INITIATIVE WOULD NOT HAVE BEEN UNDER-
TAKEN WITHOUT CLEARANCE FROM CEAUSESCU, AND THEREFORE
A DIRECT REPLY TO COMAN WOULD BE THE MOST EFFECTIVE
MEANS OF GETTING THE MESSAGE BACK TO CEAUSESCU. BARNES
AT THE SAME TIME COULD CONVEY OUR POSITIONS ON THE
ROMANIAN REQUEST FOR COMMUNICATIONS EQUIPMENT AND SPACE
RESEARCH GEAR.

7. RECOMMENDATION:

THAT YOU APPROVE GIVING THE ROMANIANS A NEGATIVE REPLY
TO THEIR REQUEST.(OPTION 1)

APPROVE:

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DISAPPROVE:

ALTERNATIVELY, THAT YOU APPROVE GIVING A TEMPORIZING
REPLY. (OPTION 4)

APPROVE:

DISAPPROVE:

OTHER OPTIONS:

THAT WE SAY THAT WE ARE PREPARED TO BE OF SOME ASSISTANCE
(PREFERABLY AS FAR AS "NON-LETHAL" EQUIPMENT IS
CONCERNED). (OPTION 3)

APPROVE:

DISAPPROVE:

THAT WE SAY THAT WE WILL DO WHAT WE CAN. (OPTION 2)

APPROVE:

DISAPPROVE:

CLEARED: EUR, EB, PM, AND SONNENFELDT.

TAB 1 - LEGAL CONSTRAINTS ON SALES TO ROMANIA

1. THE AVAILABLE RANGE OF OPTIONS IS LIMITED BY CURRENT-
LY APPLICABLE LEGAL CONSTRAINTS. (WE DO NOT BELIEVE
AN OPTION PREDICATED UPON A CHANGE IN THE APPLICABLE
U.S. LEGISLATION WOULD BE A VIABLE POSSIBILITY.)

2. THE BASIC U.S. POLICY ON ARMS EXPORTS TO COMMUNIST
COUNTRIES IS SET OUT IN THE MUTUAL DEFENSE ASSISTANCE
CONTROL ACT OF 1951, AS AMENDED (THE BATTLE ACT).
SECTION 101 OF THAT STATUTE DECLARES IT TO BE THE POLICY
OF THE UNITED STATES "TO APPLY AN EMBARGO ON THE SHIP-
MENT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR, ATOMIC
ENERGY MATERIALS, PETROLEUM, TRANSPORTATION MATERIALS OF
STRATEGIC VALUE, AND ITEMS OF PRIMARY STRATEGIC SIGNIFI-
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CANCE USED IN THE PRODUCTION OF ARMS, AMMUNITION AND
IMPLEMENTS OF WAR TO...THE UNION OF SOVIET SOCIALIST
REPUBLIC AND ALL COUNTRIES UNDER ITS DOMINATION." BY
VIRTUE OF ITS MEMBERSHIP IN THE WARSAW PACT, ROMANIA HAS
CONSISTENTLY BEEN REGARDED AS ONE OF THE COUNTRIES TO
WHICH THIS POLICY IS APPLICABLE.

3. THE ACT CONTEMPLATES EXCEPTIONS IN UNUSUAL CIRCUM-
STANCES WITH RESPECT TO STRATEGIC ITEMS OTHER THAN ARMS,
AMMUNITION, IMPLEMENTS OF WAR AND ATOMIC ENERGY MATERIALS.
ACCORDINGLY, THE BATTLE ACT IS IMPLEMENTED BY THE PROMUL-
GATION OF TWO LISTS OF CONTROLLED ITEMS. AN ABSOLUTE
EMBARGO IS IMPOSED ON ARMS, AMMUNITION AND IMPLEMENTS OF

WAR AND ATOMIC ENERGY MATERIALS (CATEGORY A); OTHER STRATEGIC ITEMS MAY BE EXPORTED TO COMMUNIST COUNTRIES ON AN EXCEPTIONAL BASIS (CATEGORY B).

4. ALTHOUGH THE BATTLE ACT DEALS PRIMARILY WITH EXPORTS TO COMMUNIST COUNTRIES BY COUNTRIES RECEIVING U.S. ASSISTANCE, THE ABOVE-QUOTED POLICY AND THE LISTS OF EMBARGOED ITEMS WHICH THE ACT SEEKS TO APPLY TO EXPORTS OF SUCH THIRD COUNTRIES ARE PRESUMED TO BE APPLICABLE TO U.S. EXPORTS AS WELL. THE RATIONALE FOR THIS ASSUMPTION IS THAT THE USG CANNOT EXPECT TO INSIST UPON ADHERENCE TO AN EMBARGO POLICY BY THIRD COUNTRIES WHICH IS MORE STRIDENT THAN THAT FOLLOWED BY THE U.S. ITSELF. THUS, WHILE THE ACT DOES NOT PROHIBIT U.S. EXPORTS TO SOVIET DOMINATED COUNTRIES OF MILITARY HARDWARE AND TECHNOLOGY, A POLICY OF PROHIBITING SUCH EXPORTS IS NECESSARY TO GIVE EFFECT TO THE ACT'S INTENT OF PREVENTING EXPORTS BY THIRD COUNTRIES. ACCORDINGLY, U.S. EXPORT CONTROL REGULATIONS EXPRESS A POLICY OF NOT AUTHORIZING EXPORTS TO SPECIFIED EASTERN EUROPEAN COMMUNIST COUNTRIES, INCLUDING ROMANIA, OF ITEMS ON THE

U.S. MUNITIONS LIST OR OTHER ITEMS WHICH WOULD MAKE A SIGNIFICANT CONTRIBUTION TO THE MILITARY POTENTIAL OF SUCH COUNTRIES.

5. ANOTHER RAMIFICATION OF THE BATTLE ACT POLICY IS THE EFFORT BY THE U.S., ESPECIALLY WITHIN COCOM, TO
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ENSURE A UNIFORM POLICY AMONG ITS ALLIES REGARDING THE EMBARGO OF MILITARY AND STRATEGIC ITEMS TO COMMUNIST COUNTRIES. IF THE USG WERE TO APPROVE EXPORTS OF STRATEGIC ITEMS TO ROMANIA, IT WOULD BE EXTREMELY DIFFICULT TO OBJECT TO SIMILAR EXPORTS BY OTHER COCOM MEMBERS TO COMMUNIST COUNTRIES. COCOM PROCEDURES WOULD REQUIRE ADVANCE CONSULTATION WITH OUR ALLIES. IN THIS CASE, THE MILITARY ITEMS IN WHICH THE ROMANIANS HAVE EXPRESSED INTEREST APPEAR TO BE COVERED BY THE CATEGORY A LIST AND ARE, THEREFORE, SUBJECT TO THE ABSOLUTE EMBARGO POLICIES OF THE BATTLE ACT AND COCOM.

6. IT HAS BEEN CONSISTENTLY RECOGNIZED THAT U.S. EXPORT PRACTICES MUST BE KEPT CONSISTENT WITH THE POLICIES WE URGE UPON THIRD COUNTRIES. THE ONLY ITEMS UNDER BATTLE ACT AND COCOM CONTROLS WHICH WE HAVE EXPORTED TO ROMANIA HAVE BEEN IN CATEGORY B (I.E. ITEMS OTHER THAN ARMS, AMMUNITION, IMPLEMENTS OF WAR OR ATOMIC ENERGY MATERIALS). IN ADDITION, NONE OF THE COMMUNIST COUNTRIES TO WHICH THE BATTLE ACT AND COCOM CONTROLS APPLY HAS BEEN MADE ELIGIBLE FOR SALES OF MILITARY EQUIPMENT OR TECHNOLOGY UNDER THE FOREIGN MILITARY SALES ACT OR PREDECESSOR LEGISLATION.

7. SINCE NEITHER THE BATTLE ACT NOR ANY OTHER ACT CONTAINS A MANDATORY PROHIBITION AGAINST MILITARY EXPORTS BY THE UNITED STATES TO CONTROLLED COUNTRIES, IT CAN REASONABLY BE ARGUED THAT THE PRESIDENT RETAINS THE AUTHORITY TO AUTHORIZE SUCH EXPORTS. IT WOULD BE DIFFICULT TO JUSTIFY SUCH AN AUTHORIZATION, HOWEVER, AS BEING CONSISTENT WITH THE RESPONSIBILITY OF THE EXECUTIVE BRANCH TO GIVE EFFECT TO THE BATTLE ACT'S MANDATE THAT THE U.S. TRY TO PREVENT SIMILAR EXPORTS BY U.S. AID RECIPIENTS.

8. EXPORTS OF MILITARY ITEMS SOLD THROUGH COMMERCIAL CHANNELS COULD BE AUTHORIZED UNDER EXISTING MUNITIONS EXPORT CONTROL REGULATIONS. THE REGULATIONS CONTAIN A GENERAL PROHIBITION GIVING EFFECT TO THE BATTLE ACT POLICY. HOWEVER, IF THE ADMINISTRATION DECIDED TO DISREGARD THAT POLICY AND OBTAINED COCOM CONSENT, THE PROHIBITION COULD BE WAIVED BY THE DIRECTOR OF THE OFFICE OF SECRET

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MUNITIONS CONTROL. SIGNIFICANT EXPORTS OF MUNITIONS LIST ITEMS (OVER \$100,000 IN VALUE) LICENSED BY THE DEPART-

MENT'S OFFICE OF MUNITIONS CONTROL ARE REQUIRED TO BE REPORTED TO CONGRESS.

9. WITH RESPECT TO EXPORTS THROUGH GOVERNMENT-TO-GOVERNMENT CHANNELS, EVEN GREATER DIFFICULTIES WOULD BE PRESENTED. IN PARTICULAR, THE STATUTORY AUTHORITY FOR USG SALES OF MILITARY EQUIPMENT AND TECHNOLOGY, THE FOREIGN MILITARY SALES ACT, AS AMENDED, PERMITS SALES ONLY TO THOSE COUNTRIES WITH RESPECT TO WHICH THE PRESIDENT HAS FOUND THAT SALES WITH "STRENGTHEN THE SECURITY OF THE UNITED STATES AND PROMOTE WORLD PEACE." IT WOULD SEEM EXCEEDINGLY DIFFICULT TO DEVISE A JUSTIFICATION FOR SUCH A FINDING FOR A WARSAW PACT COUNTRY THAT WOULD BE PERSUASIVE TO CONGRESS. FINDINGS UNDER THE ACT HAVE IN THE PAST ROUTINELY BEEN PROVIDED TO THE CONGRESS AND THE PUBLIC, ALTHOUGH NOT EXPRESSLY REQUIRED BY LAW. THE EXISTENCE OF ANY SUCH FINDING COULD NOT BE CONCEALED IN LIGHT OF THE VARIOUS REPORTING REQUIREMENTS CONTAINED IN THE ACT.

10. THE FOREGOING DISCUSSION INDICATES THAT SOME ITEMS COULD BE MADE AVAILABLE TO ROMANIA IN EXISTING LAW, IF THE ADMINISTRATION WERE WILLING TO DISREGARD THE POLICY SET OUT IN THE BATTLE ACT AND COULD OBTAIN COCOM CLEARANCE. A CONSIDERATION MUST ALSO BE GIVEN TO THE LIKELY CONGRESSIONAL REACTION IN THE EVENT SUCH TRANSFERS WERE APPROVED. IN THIS REGARD, THERE WOULD APPEAR TO BE A SUBSTANTIAL RISK THAT CONGRESS WOULD NOT

SUPPORT MILITARY SALES TO ROMANIA AND WOULD ADOPT
FURTHER RESTRICTIVE LEGISLATION THAT COULD HAVE BROADER
IMPLICATIONS THAN THE PARTICULAR ISSUES HERE INVOLVED.
THE VITALITY OF CONGRESSIONAL SUPPORT FOR THE POLICY SET
OUT IN THE BATTLE ACT IS EVIDENCED BY THE ENACTMENT LAST
YEAR OF AMENDMENTS TO THE EXPORT CONTROL LAWS. THESE
RECENT ENACTMENTS ARE DESIGNED TO ENSURE AN ADEQUATE
OPPORTUNITY FOR THE DEPARTMENT OF DEFENSE TO EXPRESS ITS
OBJECTION TO ANY PROPOSED EXPORT TO A COMMUNIST COUNTRY
WHICH DOD BELIEVES WILL SIGNIFICANTLY INCREASE THE
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MILITARY CAPABILITY OF SUCH COUNTRY. THIS EVIDENCES
CONGRESSIONAL CONCERN OVER THE POSSIBILITY OF SUCH EXPORTS.

11. DRAFTED: L/PM - JAMES MICHEL.

12. TABS 2 AND 3 ARE BEING REPEATED SEPTTEL. INGERSOLL

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